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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/248,595	02/11/1999	BRIAN FEENEY	P-5761-SPALD	8963

24492 7590 06/26/2003

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EXAMINER

ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/26/2003

26

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/248,595

Applicant(s)

FEENEY ET AL.

Examiner

Mitra Aryanpour

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-11,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-11,17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/12/1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

This application was remanded for consideration of written description issues raised by the Board under 35 USC 112, first paragraph. Responsive thereto prosecution is reopened as follows.

#### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, *the game ball having a cover and a bladder* must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-6, 8-11, 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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*Applicant has failed to sufficiently disclose how the increased water resistant properties for a natural leather cover has been achieved during the alleged tanning process for the full range of weight ratios which is critical or essential to the practice of the invention, is not enabled by the disclosure and fails to establish that applicant's original disclosure provides written descriptive support for each of the ratio ranges recited. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). As a result of reviewing and analyzing the specification, which was directed by the Board, it is also now clear an enablement rejection must also be made.*

Applicant has mentioned in the specification (page 10) several suitable leathers, which are commercially available, but has failed to disclose what process has been used to produce the "increase water resistant properties" in the natural leather or that at the time of filing of this application applicant was in possession of this information? Therefore, it is unclear how the unexpected results have been reached, since one skilled in the art will not be able to make or use applicant's invention as originally filed nor is it clear that applicant was in possession of the ratio ranges recited. Additionally, the tables do not correspond to the claimed ranges.

4. Claims 1-6, 11, 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 1-6, the application as originally filed does not provide support for a game ball without a bladder, and for claims 11, 17 and 18, additionally the application as originally filed, does not provide support for a game ball without a lining and without a bladder.

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The game balls used to conduct the rain test in Example 1 having a cover, a lining and a bladder, and in Comparative Example 1, the game ball having a Cover and a bladder. No information has been provided to lead one to believe that additional rain tests were conducted for game balls not having the above characteristics. It is unclear how the claimed ranges were obtained, since there are no tables to support such limitations? Therefore, it is not readily apparent from the claim language that a bladder is present for the claimed game ball.

Regarding claims 11, 17 and 18, claim 11 recites the limitation “three 90 minute cycles of a rain test”. Claims 17 and 18 are dependent on claim 11, but both claims 17 and 18 recite the limitation “four 45 minute cycles of a rain test in addition to the limitation of claim 11. There is no support in the disclosure as originally filed, for a game ball being subject first to “three 90 minutes cycles” and then to “four 45 minutes cycles” of the rain test, therefore, it is unclear how the claimed limitations and ranges were achieved.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 11, 17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites the limitation “three 90 minute cycles of a rain test”. However, since claims 17 and 18 are dependent on claim 11, it would also include the limitations of claim 11, but both claims 17 and 18 additionally recite the limitation “four 45 minute cycles of a rain test.

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There is no support in the disclosure as originally filed, for a game ball being subject first to "three 90 minutes cycles" and then to "four 45 minutes cycles" of the rain test.

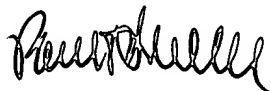
***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 703-308-3550. The examiner can normally be reached on Monday - Friday 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul T Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

MA  
12 June 2003



Paul T. Sewell  
Supervisory Patent Examiner  
Group 3700



E. ROLLINS-CROSS  
GROUP DIRECTOR  
TECHNOLOGY CENTER 3700

Approval For Reopening Prosecution.